

Calendar No. 154

109TH CONGRESS
1ST SESSION**S. 858****[Report No. 109–100]**

To reauthorize Nuclear Regulatory Commission user fees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2005

Mr. VOINOVICH (for himself, Mr. INHOFE, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 1, 2005

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reauthorize Nuclear Regulatory Commission user fees,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.—~~This Act may be cited as the

5 ~~“Nuclear Fees Reauthorization Act of 2005”.~~

1 (b) **TABLE OF CONTENTS.**—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NRC USER FEES

Sec. 101. Nuclear Regulatory Commission user fees and annual charges.

TITLE II—NRC REFORM

Sec. 201. Treatment of nuclear reactor financial obligations.

Sec. 202. Period of combined license.

Sec. 203. Elimination of NRC antitrust reviews.

Sec. 204. Scope of environmental review.

Sec. 205. Medical isotope production.

Sec. 206. Cost recovery from government agencies.

Sec. 207. Conflicts of interest relating to contracts and other arrangements.

Sec. 208. Hearing procedures.

Sec. 209. Authorization of appropriations.

TITLE III—NRC HUMAN CAPITAL PROVISIONS

Sec. 301. Provision of support to university nuclear safety, security, and environmental protection programs.

Sec. 302. Promotional items.

Sec. 303. Expenses authorized to be paid by the Nuclear Regulatory Commission.

Sec. 304. Nuclear Regulatory Commission scholarship and fellowship program.

Sec. 305. Partnership program with institutions of higher education.

Sec. 306. Elimination of pension offset for certain rehired Federal retirees.

Sec. 307. Authorization of appropriations.

3 **TITLE I—NRC USER FEES**

4 **SEC. 101. NUCLEAR REGULATORY COMMISSION USER FEES**

5 **AND ANNUAL CHARGES.**

6 (a) **IN GENERAL.**—Section 6101 of the Omnibus
 7 Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is
 8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1), by striking “Except
 11 as provided in paragraph (3), the” and insert-
 12 ing “The”; and

13 (B) by striking paragraph (3); and

1 ~~(2) in subsection (c)(2)—~~

2 ~~(A) in subparagraph (A)—~~

3 ~~(i) in clause (i), by striking “and” at~~
 4 ~~the end;~~

5 ~~(ii) in clause (ii), by striking the pe-~~
 6 ~~riod at the end and inserting “; and”; and~~

7 ~~(iii) by adding at the end the fol-~~
 8 ~~lowing:~~

9 ~~“(iii) amounts appropriated to the~~
 10 ~~Nuclear Regulatory Commission for the~~
 11 ~~fiscal year for implementation of section~~
 12 ~~3116 of the Ronald W. Reagan National~~
 13 ~~Defense Authorization Act for Fiscal Year~~
 14 ~~2005 (118 Stat. 2162; 50 U.S.C. 2601~~
 15 ~~note)”; and~~

16 ~~(B) in subparagraph (B)(v), by inserting~~
 17 ~~“and each fiscal year thereafter” after “2005”.~~

18 ~~(b) NUCLEAR REGULATORY COMMISSION ANNUAL~~
 19 ~~CHARGES.—Section 7601 of the Consolidated Omnibus~~
 20 ~~Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is~~
 21 ~~repealed.~~

TITLE II—NRC REFORM

SEC. 201. TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.

Section 523 of title 11, United States Code, is amended by adding at the end the following:

“(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

“(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

1 ~~“(2) obligations of licensees, former licensees,~~
 2 ~~or any other person to use funds or other assets to~~
 3 ~~satisfy a responsibility described in paragraph (1)~~
 4 ~~may not be rejected, avoided, or discharged in any~~
 5 ~~proceeding under this title or in any liquidation, re-~~
 6 ~~organization, receivership, or other insolvency pro-~~
 7 ~~ceeding under Federal or State law; and~~

8 ~~“(3) private insurance premiums and standard~~
 9 ~~deferred premiums held and maintained in accord-~~
 10 ~~ance with section 170 b. of the Atomic Energy Act~~
 11 ~~of 1954 (42 U.S.C. 2210(b)) shall not be used to~~
 12 ~~satisfy the claim of any creditor in any proceeding~~
 13 ~~under this title, until the indemnification agreement~~
 14 ~~executed in accordance with section 170 e. of that~~
 15 ~~Act (42 U.S.C. 2210(e)) is terminated.”.~~

16 **SEC. 202. PERIOD OF COMBINED LICENSE.**

17 ~~Section 103 e. of the Atomic Energy Act of 1954 (42~~
 18 ~~U.S.C. 2133(e)) is amended by striking “forty years” and~~
 19 ~~inserting “40 years from the authorization to commence~~
 20 ~~operations”.~~

21 **SEC. 203. ELIMINATION OF NRC ANTITRUST REVIEWS.**

22 ~~Section 105 e. of the Atomic Energy Act of 1954 (42~~
 23 ~~U.S.C. 2135(e)) is amended by adding at the end the fol-~~
 24 ~~lowing:~~

1 “(9) **APPLICABILITY.**—This subsection does not
 2 apply to an application for a license to construct or
 3 operate a utilization facility or production facility
 4 under section 103 or 104 b., if the application is
 5 filed on or after, or is pending on, the date of enact-
 6 ment of this paragraph.”.

7 **SEC. 204. SCOPE OF ENVIRONMENTAL REVIEW.**

8 (a) **IN GENERAL.**—Chapter 10 of title I of the Atomic
 9 Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amend-
 10 ed—

11 (1) by redesignating sections 110 and 111 as
 12 section 111 and 112, respectively; and

13 (2) by inserting after section 109 the following:

14 **“SEC. 110. SCOPE OF ENVIRONMENTAL REVIEW.**

15 “**In conducting any environmental review (including**
 16 any activity conducted under section 102 of the National
 17 Environmental Policy Act of 1969 (42 U.S.C. 4332)) in
 18 connection with an application for a license or a renewed
 19 license under this chapter, the Commission shall not give
 20 any consideration to the need for, or any alternative to,
 21 the facility to be licensed.”.

22 (b) **CONFORMING AMENDMENTS.**—

23 (1) The table of contents of the Atomic Energy
 24 Act of 1954 (42 U.S.C. prec. 2011) is amended by

1 striking the item relating to section 110 and insert-
2 ing the following:

“Sec. 110: Scope of environmental review.

“Sec. 111: Exclusions.

“Sec. 112: Licensing by Nuclear Regulatory Commission of distribution of
certain materials by Department of Energy.”;

3 (2) Section 57 b. of the Atomic Energy Act of
4 1954 (42 U.S.C. 2077(b)) is amended in the last
5 sentence by striking “section 111 b.” and inserting
6 “section 112 b.”.

7 (3) Section 131 a.(2)(C) of the Atomic Energy
8 Act of 1954 (42 U.S.C. 2160(a)(2)(C)), by striking
9 “section 111 b.” and inserting “section 112 b.”.

10 (4) Section 202 of the Energy Reorganization
11 Act of 1974 (42 U.S.C. 5842) is amended—

12 (A) by striking “section 110 a.” and in-
13 serting “section 111 a.”; and

14 (B) by striking “section 110 b.” and in-
15 serting “section 111 b.”.

16 **SEC. 205. MEDICAL ISOTOPE PRODUCTION.**

17 Section 134 of the Atomic Energy Act of 1954 (42
18 U.S.C. 2160d) is amended—

19 (1) by redesignating subsections a. and b. as
20 subsections b. and a., respectively, and by moving
21 subsection b. (as so redesignated) to the end of the
22 section;

(2) in subsection b. (as so redesignated), by striking “b. The Commission” and inserting “b. RESTRICTIONS.—Except as provided in subsection e., the Commission”; and

(3) by adding at the end the following:

“e. MEDICAL ISOTOPE PRODUCTION.—

“(1) DEFINITIONS.—In this subsection:

“(A) MEDICAL ISOTOPE.—The term ‘medical isotope’ includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

“(B) RADIOPHARMACEUTICAL.—The term ‘radiopharmaceutical’ means a radioactive isotope that—

“(i) contains byproduct material combined with chemical or biological material; and

“(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

1 “(C) RECIPIENT COUNTRY.—The term ‘re-
 2 eipient country’ means Belgium, Canada,
 3 France, Germany, and the Netherlands.

4 “(2) LICENSES.—The Commission may issue a
 5 license authorizing the export (including shipment to
 6 and use at intermediate and ultimate consignees
 7 specified in the license) to a recipient country of
 8 highly enriched uranium for medical isotope produc-
 9 tion if, in addition to any other requirements of this
 10 Act (except subsection b.), the Commission deter-
 11 mines that—

12 “(A) a recipient country that supplies an
 13 assurance letter to the United States Govern-
 14 ment in connection with the consideration by
 15 the Commission of the export license applica-
 16 tion has informed the United States Govern-
 17 ment that any intermediate consignees and the
 18 ultimate consignee specified in the application
 19 are required to use the highly enriched uranium
 20 solely to produce medical isotopes; and

21 “(B) the highly enriched uranium for med-
 22 ical isotope production will be irradiated only in
 23 a reactor in a recipient country that—

24 “(i) uses an alternative nuclear reac-
 25 tor fuel; or

1 “(ii) is the subject of an agreement
2 with the United States Government to con-
3 vert to an alternative nuclear reactor fuel
4 when alternative nuclear reactor fuel can
5 be used in the reactor.

6 ~~“(3) REVIEW OF PHYSICAL PROTECTION RE-~~
7 ~~QUIREMENTS.—~~

8 ~~“(A) IN GENERAL.—~~The Commission shall
9 review the adequacy of physical protection re-
10 quirements that, as of the date of an applica-
11 tion under paragraph (2), are applicable to the
12 transportation and storage of highly enriched
13 uranium for medical isotope production or con-
14 trol of residual material after irradiation and
15 extraction of medical isotopes.

16 ~~“(B) IMPOSITION OF ADDITIONAL RE-~~
17 ~~QUIREMENTS.—~~If the Commission determines
18 that additional physical protection requirements
19 are necessary (including a limit on the quantity
20 of highly enriched uranium that may be con-
21 tained in a single shipment), the Commission
22 shall impose such requirements as license condi-
23 tions or through other appropriate means.

24 ~~“(4) FIRST REPORT TO CONGRESS.—~~

1 “(A) NATIONAL ACADEMY OF SCIENCES
2 STUDY.—The Secretary shall enter into an ar-
3 rangement with the National Academy of
4 Sciences to conduct a study to determine—

5 “(i) the feasibility of procuring sup-
6 plies of medical isotopes from commercial
7 sources that do not use highly enriched
8 uranium;

9 “(ii) the current and projected de-
10 mand and availability of medical isotopes
11 in regular current domestic use;

12 “(iii) the progress that is being made
13 by the Department of Energy and others
14 to eliminate all use of highly enriched ura-
15 nium in reactor fuel, reactor targets, and
16 medical isotope production facilities; and

17 “(iv) the potential cost differential in
18 medical isotope production in the reactors
19 and target processing facilities if the prod-
20 ucts were derived from production systems
21 that do not involve fuels and targets with
22 highly enriched uranium.

23 “(B) FEASIBILITY.—For the purpose of
24 this subsection, the use of low enriched uranium

1 to produce medical isotopes shall be determined
2 to be feasible if—

3 “(i) low enriched uranium targets
4 have been developed and demonstrated for
5 use in the reactors and target processing
6 facilities that produce significant quantities
7 of medical isotopes to serve United States
8 needs for such isotopes;

9 “(ii) sufficient quantities of medical
10 isotopes are available from low enriched
11 uranium targets and fuel to meet United
12 States domestic needs; and

13 “(iii) the average anticipated total
14 cost increase from production of medical
15 isotopes in such facilities without use of
16 highly enriched uranium is less than 10
17 percent.

18 “(C) REPORT BY THE SECRETARY.—Not
19 later than 5 years after the date of enactment
20 of the Nuclear Fees Reauthorization Act of
21 2005, the Secretary shall submit to Congress a
22 report that—

23 “(i) contains the findings of the Na-
24 tional Academy of Sciences made in the
25 study under subparagraph (A); and

1 “(ii) discloses the existence of any
2 commitments from commercial producers
3 to provide domestic requirements for med-
4 ical isotopes without use of highly enriched
5 uranium consistent with the feasibility cri-
6 teria described in subparagraph (B) not
7 later than the date that is 4 years after
8 the date of submission of the report.

9 “(5) SECOND REPORT TO CONGRESS.—If the
10 study of the National Academy of Sciences deter-
11 mines under paragraph (4)(A)(i) that the procure-
12 ment of supplies of medical isotopes from commer-
13 cial sources that do not use highly enriched uranium
14 is feasible, but the Secretary is unable to report the
15 existence of commitments under paragraph
16 (4)(C)(ii), not later than the date that is 6 years
17 after the date of enactment of the Nuclear Fees Re-
18 authorization Act of 2005, the Secretary shall sub-
19 mit to Congress a report that describes options for
20 developing domestic supplies of medical isotopes in
21 quantities that are adequate to meet domestic de-
22 mand without the use of highly enriched uranium
23 consistent with the cost increase described in para-
24 graph (4)(B)(iii).

1 ~~“(6) CERTIFICATION.—At such time as com-~~
 2 ~~mercial facilities that do not use highly enriched~~
 3 ~~uranium are capable of meeting domestic require-~~
 4 ~~ments for medical isotopes, within the cost increase~~
 5 ~~described in paragraph (4)(B)(iii) and without im-~~
 6 ~~pairing the reliable supply of medical isotopes for~~
 7 ~~domestic utilization, the Secretary shall submit to~~
 8 ~~Congress a certification to that effect.~~

9 ~~“(7) SUNSET PROVISION.—After the Secretary~~
 10 ~~submits a certification under paragraph (6), the~~
 11 ~~Commission shall, by rule, terminate the review of~~
 12 ~~the Commission of export license applications under~~
 13 ~~this subsection.”.~~

14 **SEC. 206. COST RECOVERY FROM GOVERNMENT AGENCIES.**

15 Section 161 w. of the Atomic Energy Act of 1954
 16 ~~(42 U.S.C. 2201(w)) is amended—~~

17 ~~(1) by striking “for or is issued” and all that~~
 18 ~~follows through “1702” and inserting “to the Nu-~~
 19 ~~clear Regulatory Commission for, or is issued by the~~
 20 ~~Nuclear Regulatory Commission, a license or certifi-~~
 21 ~~cate”;~~

22 ~~(2) by striking “482a” and inserting “9701”;~~
 23 ~~and~~

24 ~~(3) by striking “, of applicants for, or holders~~
 25 ~~of, such licenses or certificates”.~~

1 **SEC. 207. CONFLICTS OF INTEREST RELATING TO CON-**
 2 **TRACTS AND OTHER ARRANGEMENTS.**

3 Section 170A b. of the Atomic Energy Act of 1954
 4 (42 U.S.C. 2210a(b)) is amended—

5 (1) by redesignating paragraphs (1) and (2) as
 6 subparagraphs (A) and (B), respectively, and indent-
 7 ing appropriately;

8 (2) by striking “b. The Commission” and in-
 9 serting the following:

10 “b. EVALUATION.—

11 “(1) IN GENERAL.—Except as provided in para-
 12 graph (2), the Commission”; and

13 (3) by adding at the end the following:

14 “(2) NUCLEAR REGULATORY COMMISSION.—

15 Notwithstanding any conflict of interest, the Nuclear
 16 Regulatory Commission may enter into a contract,
 17 agreement, or arrangement with the Department of
 18 Energy or the operator of a Department of Energy
 19 facility, if the Nuclear Regulatory Commission deter-
 20 mines that—

21 “(A) the conflict of interest cannot be miti-
 22 gated; and

23 “(B) adequate justification exists to pro-
 24 ceed without mitigation of the conflict of inter-
 25 est.”.

1 **SEC. 208. HEARING PROCEDURES.**

2 Section 189 a. (1) of the Atomic Energy Act of 1954
3 (42 U.S.C. 2239(a)(1)) is amended by adding at the end
4 the following:

5 “(C) HEARINGS.—A hearing under this
6 section shall be conducted using informal adju-
7 dicatory procedures unless the Commission de-
8 termines that formal adjudicatory procedures
9 are necessary—

10 “(i) to develop a sufficient record; or

11 “(ii) to achieve fairness.”.

12 **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to carry out
14 this title and the amendments made by this title such
15 sums as are necessary for fiscal year 2006 and each subse-
16 quent fiscal year.

17 **TITLE III—NRC HUMAN CAPITAL**
18 **PROVISIONS**

19 **SEC. 301. PROVISION OF SUPPORT TO UNIVERSITY NU-**
20 **CLEAR SAFETY, SECURITY, AND ENVIRON-**
21 **MENTAL PROTECTION PROGRAMS.**

22 Section 31 b. of the Atomic Energy Act of 1954 (42
23 U.S.C. 2051(b)) is amended—

24 (1) by striking “b. The Commission is further
25 authorized to make” and inserting the following:

1 “b. GRANTS AND CONTRIBUTIONS.—The Commis-
2 sion is authorized—

3 “(1) to make”;

4 (2) in paragraph (1) (as designated by para-
5 graph (1)) by striking the period at the end and in-
6 serting “; and”; and

7 (3) by adding at the end the following:

8 “(2) to provide grants, loans, cooperative agree-
9 ments, contracts, and equipment to institutions of
10 higher education (as defined in section 102 of the
11 Higher Education Act of 1965 (20 U.S.C. 1002)) to
12 support courses, studies, training, curricula, and dis-
13 ciplines pertaining to nuclear safety, security, or en-
14 vironmental protection, or any other field that the
15 Commission determines to be critical to the regu-
16 latory mission of the Commission.”.

17 **SEC. 302. PROMOTIONAL ITEMS.**

18 Chapter 14 of the Atomic Energy Act of 1954 (42
19 U.S.C. 2201 et seq.) is amended by adding at the end
20 the following:

21 **“SEC. 170C. PROMOTIONAL ITEMS.**

22 “‘The Commission may purchase promotional items of
23 nominal value for use in the recruitment of individuals for
24 employment.’”.

1 **SEC. 303. EXPENSES AUTHORIZED TO BE PAID BY THE NU-**
 2 **CLEAR REGULATORY COMMISSION.**

3 Chapter 14 of the Atomic Energy Act of 1954 (42
 4 U.S.C. 2201 et seq.) (as amended by section 302) is
 5 amended by adding at the end the following:

6 **“SEC. 170D. EXPENSES AUTHORIZED TO BE PAID BY THE**
 7 **COMMISSION.**

8 “The Commission may—

9 “(1) pay transportation, lodging, and subsist-
 10 ence expenses of employees who—

11 “(A) assist scientific, professional, admin-
 12 istrative, or technical employees of the Commis-
 13 sion; and

14 “(B) are students in good standing at an
 15 institution of higher education (as defined in
 16 section 102 of the Higher Education Act of
 17 1965 (20 U.S.C. 1002)) pursuing courses re-
 18 lated to the field in which the students are em-
 19 ployed by the Commission; and

20 “(2) pay the costs of health and medical serv-
 21 ices furnished, pursuant to an agreement between
 22 the Commission and the Department of State, to
 23 employees of the Commission and dependents of the
 24 employees serving in foreign countries.”.

1 **SEC. 304. NUCLEAR REGULATORY COMMISSION SCHOLAR-**
 2 **SHIP AND FELLOWSHIP PROGRAM.**

3 Chapter 19 of the Atomic Energy Act of 1954 is
 4 amended by inserting after section 242 (42 U.S.C. 2015a)
 5 the following:

6 **“SEC. 243. SCHOLARSHIP AND FELLOWSHIP PROGRAM.**

7 “(a) SCHOLARSHIP PROGRAM.—To enable students
 8 to study, for at least 1 academic semester or equivalent
 9 term, science, engineering, or another field of study that
 10 the Commission determines is in a critical skill area re-
 11 lated to the regulatory mission of the Commission, the
 12 Commission may carry out a program to—

13 “(1) award scholarships to undergraduate stu-
 14 dents who—

15 “(A) are United States citizens; and

16 “(B) enter into an agreement under sub-
 17 section (c) to be employed by the Commission
 18 in the area of study for which the scholarship
 19 is awarded.

20 “(b) FELLOWSHIP PROGRAM.—To enable students to
 21 pursue education in science, engineering, or another field
 22 of study that the Commission determines is in a critical
 23 skill area related to its regulatory mission, in a graduate
 24 or professional degree program offered by an institution
 25 of higher education in the United States, the Commission
 26 may carry out a program to—

1 “(1) award fellowships to graduate students
2 who—

3 “(A) are United States citizens; and

4 “(B) enter into an agreement under sub-
5 section (e) to be employed by the Commission
6 in the area of study for which the fellowship is
7 awarded.

8 “(e) REQUIREMENTS.—

9 “(1) IN GENERAL.—As a condition of receiving
10 a scholarship or fellowship under subsection (a) or
11 (b), a recipient of the scholarship or fellowship shall
12 enter into an agreement with the Commission under
13 which, in return for the assistance, the recipient
14 shall—

15 “(A) maintain satisfactory academic
16 progress in the studies of the recipient, as de-
17 termined by criteria established by the Commis-
18 sion;

19 “(B) agree that failure to maintain satis-
20 factory academic progress shall constitute
21 grounds on which the Commission may termi-
22 nate the assistance;

23 “(C) on completion of the academic course
24 of study in connection with which the assistance
25 was provided; and in accordance with criteria

1 established by the Commission; engage in em-
 2 ployment by the Commission for a period speci-
 3 fied by the Commission; that shall be not less
 4 than 1 time and not more than 3 times the pe-
 5 riod for which the assistance was provided; and

6 ~~“(D) if the recipient fails to meet the re-~~
 7 ~~quirements of subparagraph (A), (B), or (C);~~
 8 ~~reimburse the United States Government for—~~

9 ~~“(i) the entire amount of the assist-~~
 10 ~~ance provided the recipient under the~~
 11 ~~scholarship or fellowship; and~~

12 ~~“(ii) interest at a rate determined by~~
 13 ~~the Commission.~~

14 ~~“(2) WAIVER OR SUSPENSION.—The Commis-~~
 15 ~~sion may establish criteria for the partial or total~~
 16 ~~waiver or suspension of any obligation of service or~~
 17 ~~payment incurred by a recipient of a scholarship or~~
 18 ~~fellowship under this section.~~

19 ~~“(d) COMPETITIVE PROCESS.—Recipients of scholar-~~
 20 ~~ships or fellowships under this section shall be selected~~
 21 ~~through a competitive process primarily on the basis of~~
 22 ~~academic merit and such other criteria as the Commission~~
 23 ~~may establish; with consideration given to financial need~~
 24 ~~and the goal of promoting the participation of individuals~~

1 identified in section 33 or 34 of the Science and Engineer-
 2 ing Equal Opportunities Act (42 U.S.C. 1885a, 1885b).

3 “(e) **DIRECT APPOINTMENT.**—The Commission may
 4 appoint directly, with no further competition, public no-
 5 tice, or consideration of any other potential candidate, an
 6 individual who has completed the academic program for
 7 which a scholarship or fellowship was awarded by the
 8 Commission under this section.”.

9 **SEC. 305. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF**
 10 **HIGHER EDUCATION.**

11 Chapter 19 of the Atomic Energy Act of 1954 (42
 12 U.S.C. 2015 et seq.) (as amended by section 304) is
 13 amended by inserting after section 243 the following:

14 **“SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS**
 15 **OF HIGHER EDUCATION.**

16 “(a) **DEFINITIONS.**—In this section:

17 “(1) **HISPANIC-SERVING INSTITUTION.**—The
 18 term ‘Hispanic-serving institution’ has the meaning
 19 given the term in section 502(a) of the Higher Edu-
 20 cation Act of 1965 (20 U.S.C. 1101a(a)).

21 “(2) **HISTORICALLY BLACK COLLEGE AND UNI-**
 22 **VERSITY.**—The term ‘historically Black college or
 23 university’ has the meaning given the term ‘part B
 24 institution’ in section 322 of the Higher Education
 25 Act of 1965 (20 U.S.C. 1061).

1 ~~“(3) TRIBAL COLLEGE.—The term ‘Tribal col-~~
 2 ~~lege’ has the meaning given the term ‘tribally con-~~
 3 ~~trolled college or university’ in section 2(a) of the~~
 4 ~~Tribally Controlled College or University Assistance~~
 5 ~~Act of 1978 (25 U.S.C. 1801(a)).~~

6 ~~“(b) PARTNERSHIP PROGRAM.—The Commission~~
 7 ~~may establish and participate in activities relating to re-~~
 8 ~~search, mentoring, instruction, and training with institu-~~
 9 ~~tions of higher education, including Hispanic-serving insti-~~
 10 ~~tutions, historically Black colleges or universities, and~~
 11 ~~Tribal colleges, to strengthen the capacity of the institu-~~
 12 ~~tions—~~

13 ~~“(1) to educate and train students (including~~
 14 ~~present or potential employees of the Commission);~~
 15 ~~and~~

16 ~~“(2) to conduct research in the field of science,~~
 17 ~~engineering, or law, or any other field that the Com-~~
 18 ~~mission determines is important to the work of the~~
 19 ~~Commission.”.~~

20 **SEC. 306. ELIMINATION OF PENSION OFFSET FOR CERTAIN**
 21 **REHIRED FEDERAL RETIREES.**

22 Chapter 14 of the Atomic Energy Act of 1954 (42
 23 U.S.C. 2201 et seq.) (as amended by sections 302 and
 24 303) is amended by adding at the end the following:

1 **“SEC. 170E. ELIMINATION OF PENSION OFFSET FOR CER-**
 2 **TAIN REHIRED FEDERAL RETIREES.**

3 “(a) IN GENERAL.—The Commission may waive the
 4 application of section 8344 or 8468 of title 5, United
 5 States Code, on a case-by-case basis for employment of
 6 an annuitant—

7 “(1) in a position of the Commission for which
 8 there is exceptional difficulty in recruiting or retain-
 9 ing a qualified employee; or

10 “(2) when a temporary emergency hiring need
 11 exists.

12 “(b) PROCEDURES.—The Commission shall prescribe
 13 procedures for the exercise of authority under this section,
 14 including—

15 “(1) criteria for any exercise of authority; and

16 “(2) procedures for a delegation of authority.

17 “(c) EFFECT OF WAIVER.—An employee as to whom
 18 a waiver under this section is in effect shall not be consid-
 19 ered an employee for purposes of subchapter II of chapter
 20 83, or chapter 84, of title 5, United States Code.”.

21 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to carry out
 23 this title and amendments made by this title such sums
 24 as may be necessary for fiscal year 2006 and each fiscal
 25 year thereafter.

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Nu-*
 3 *clear Fees Reauthorization Act of 2005”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 5 *Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—NRC USER FEES

Sec. 101. Nuclear Regulatory Commission user fees and annual charges.

TITLE II—NRC REFORM

Sec. 201. Treatment of nuclear reactor financial obligations.

Sec. 202. Period of combined license.

Sec. 203. Elimination of NRC antitrust reviews.

Sec. 204. Medical isotope production.

Sec. 205. Cost recovery from government agencies.

Sec. 206. Conflicts of interest relating to contracts and other arrangements.

Sec. 207. Authorization of appropriations.

TITLE III—NRC HUMAN CAPITAL PROVISIONS

Sec. 301. Provision of support to university nuclear safety, security, and environ-
mental protection programs.

Sec. 302. Recruitment tools.

Sec. 303. Expenses authorized to be paid by the Nuclear Regulatory Commission.

Sec. 304. Nuclear Regulatory Commission scholarship and fellowship program.

Sec. 305. Partnership program with institutions of higher education.

Sec. 306. Elimination of pension offset for certain rehired Federal retirees.

Sec. 307. Authorization of appropriations.

6 **TITLE I—NRC USER FEES**

7 **SEC. 101. NUCLEAR REGULATORY COMMISSION USER FEES**

8 **AND ANNUAL CHARGES.**

9 *Section 6101 of the Omnibus Budget Reconciliation*
 10 *Act of 1990 (42 U.S.C. 2214) is amended—*

11 (1) *in subsection (a)(3), by striking “2005” and*
 12 *inserting “2011” ; and*

13 (2) *in subsection (c)(2)—*

14 (A) *in subparagraph (A)—*

1 (i) in clause (i), by striking “and” at
2 the end;

3 (ii) in clause (ii), by striking the pe-
4 riod at the end and inserting a semicolon;
5 and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(iii) amounts appropriated to the Nu-
9 clear Regulatory Commission for the fiscal
10 year for implementation of section 3116 of
11 the Ronald W. Reagan National Defense
12 Authorization Act for Fiscal Year 2005 (118
13 Stat. 2162; 50 U.S.C. 2601 note); and

14 “(iv) amounts appropriated to the Nu-
15 clear Regulatory Commission for homeland
16 security activities of the Nuclear Regulatory
17 Commission for the fiscal year, except for
18 the costs of fingerprinting and background
19 checks required by section 149 of the Atomic
20 Energy Act of 1954 (42 U.S.C. 2169) and
21 the costs of conducting security inspec-
22 tions.”; and

23 (B) in subparagraph (B)(v), by striking
24 “fiscal year 2005” and inserting “each of fiscal
25 years 2005 through 2011”.

TITLE II—NRC REFORM

SEC. 201. TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (4), by striking “or” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(6) funds accumulated or otherwise designated for decontamination and decommissioning pursuant to a regulation or order of the Nuclear Regulatory Commission for a nuclear power reactor licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).”.

SEC. 202. PERIOD OF COMBINED LICENSE.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by striking “forty years” and inserting “40 years from the authorization to commence operations”.

SEC. 203. ELIMINATION OF NRC ANTITRUST REVIEWS.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

1 “(9) *APPLICABILITY.*—*This subsection does not*
 2 *apply to an application for a license to construct or*
 3 *operate a utilization facility or production facility*
 4 *under section 103 or 104 b., if the application is filed*
 5 *on or after, or is pending on, the date of enactment*
 6 *of this paragraph.*”.

7 **SEC. 204. MEDICAL ISOTOPE PRODUCTION.**

8 *Section 134 of the Atomic Energy Act of 1954 (42*
 9 *U.S.C. 2160d) is amended—*

10 *(1) by redesignating subsections a. and b. as sub-*
 11 *sections b. and a., respectively, and by moving sub-*
 12 *section b. (as so redesignated) to the end of the sec-*
 13 *tion;*

14 *(2) in subsection b. (as so redesignated), by strik-*
 15 *ing “b. The Commission” and inserting “b. RESTRIC-*
 16 *TIONS.—Except as provided in subsection c., the Nu-*
 17 *clear Regulatory Commission”; and*

18 *(3) by adding at the end the following:*

19 *“c. MEDICAL ISOTOPE PRODUCTION.—*

20 *“(1) DEFINITIONS.—In this subsection:*

21 *“(A) MEDICAL ISOTOPE.—The term ‘med-*
 22 *ical isotope’ includes Molybdenum 99, Iodine*
 23 *131, Xenon 133, and other radioactive materials*
 24 *used to produce a radiopharmaceutical for diag-*

1 *nostic, therapeutic procedures or for research and*
 2 *development.*

3 “(B) *RADIOPHARMACEUTICAL.*—*The term*
 4 *‘radiopharmaceutical’ means a radioactive iso-*
 5 *tope that—*

6 “(i) *contains byproduct material com-*
 7 *bined with chemical or biological material;*
 8 *and*

9 “(ii) *is designed to accumulate tempo-*
 10 *rarily in a part of the body for therapeutic*
 11 *purposes or for enabling the production of a*
 12 *useful image for use in a diagnosis of a*
 13 *medical condition.*

14 “(C) *RECIPIENT COUNTRY.*—*The term ‘re-*
 15 *cipient country’ means Belgium, Canada,*
 16 *France, Germany, and the Netherlands.*

17 “(2) *LICENSES.*—*The Nuclear Regulatory Com-*
 18 *mission may issue a license authorizing the export*
 19 *(including shipment to and use at intermediate and*
 20 *ultimate consignees specified in the license) to a re-*
 21 *cipient country of highly enriched uranium for med-*
 22 *ical isotope production if, in addition to any other re-*
 23 *quirements of this Act (except subsection b.), the Nu-*
 24 *clear Regulatory Commission determines that—*

1 “(A) a recipient country that supplies an
 2 assurance letter to the United States Government
 3 in connection with the consideration by the Nu-
 4 clear Regulatory Commission of the export li-
 5 cense application has informed the United States
 6 Government that any intermediate consignees
 7 and the ultimate consignee specified in the ap-
 8 plication are required to use the highly enriched
 9 uranium solely to produce medical isotopes; and

10 “(B) the highly enriched uranium for med-
 11 ical isotope production will be irradiated only in
 12 a reactor in a recipient country that—

13 “(i) uses an alternative nuclear reactor
 14 fuel; or

15 “(ii) is the subject of an agreement
 16 with the United States Government to con-
 17 vert to an alternative nuclear reactor fuel
 18 when alternative nuclear reactor fuel can be
 19 used in the reactor.

20 “(3) REVIEW OF PHYSICAL PROTECTION RE-
 21 QUIREMENTS.—

22 “(A) IN GENERAL.—The Nuclear Regulatory
 23 Commission shall review the adequacy of phys-
 24 ical protection requirements that, as of the date
 25 of an application under paragraph (2), are ap-

1 *plicable to the transportation and storage of*
 2 *highly enriched uranium for medical isotope pro-*
 3 *duction or control of residual material after ir-*
 4 *radiation and extraction of medical isotopes.*

5 “(B) *IMPOSITION OF ADDITIONAL REQUIRE-*
 6 *MENTS.—If the Nuclear Regulatory Commission*
 7 *determines that additional physical protection*
 8 *requirements are necessary (including a limit on*
 9 *the quantity of highly enriched uranium that*
 10 *may be contained in a single shipment), the Nu-*
 11 *clear Regulatory Commission shall impose such*
 12 *requirements as license conditions or through*
 13 *other appropriate means.*

14 “(4) *FIRST REPORT TO CONGRESS.—*

15 “(A) *NATIONAL ACADEMY OF SCIENCES*
 16 *STUDY.—The Secretary shall enter into an ar-*
 17 *rangement with the National Academy of*
 18 *Sciences to conduct a study to determine—*

19 “(i) *the feasibility of procuring sup-*
 20 *plies of medical isotopes from commercial*
 21 *sources that do not use highly enriched ura-*
 22 *nium;*

23 “(ii) *the current and projected demand*
 24 *and availability of medical isotopes in reg-*
 25 *ular current domestic use;*

1 “(iii) the progress that is being made
 2 by the Department of Energy and others to
 3 eliminate all use of highly enriched ura-
 4 nium in reactor fuel, reactor targets, and
 5 medical isotope production facilities; and

6 “(iv) the potential cost differential in
 7 medical isotope production in the reactors
 8 and target processing facilities if the prod-
 9 ucts were derived from production systems
 10 that do not involve fuels and targets with
 11 highly enriched uranium.

12 “(B) *FEASIBILITY.*—For the purpose of this
 13 subsection, the use of low enriched uranium to
 14 produce medical isotopes shall be determined to
 15 be feasible if—

16 “(i) low enriched uranium targets have
 17 been developed and demonstrated for use in
 18 the reactors and target processing facilities
 19 that produce significant quantities of med-
 20 ical isotopes to serve United States needs for
 21 such isotopes;

22 “(ii) sufficient quantities of medical
 23 isotopes are available from low enriched
 24 uranium targets and fuel to meet United
 25 States domestic needs; and

1 “(iii) the average anticipated total cost
 2 increase from production of medical isotopes
 3 in such facilities without use of highly en-
 4 riched uranium is less than 10 percent.

5 “(C) REPORT BY THE SECRETARY.—Not
 6 later than 5 years after the date of enactment of
 7 the Nuclear Fees Reauthorization Act of 2005,
 8 the Secretary shall submit to Congress a report
 9 that—

10 “(i) contains the findings of the Na-
 11 tional Academy of Sciences made in the
 12 study under subparagraph (A); and

13 “(ii) discloses the existence of any com-
 14 mitments from commercial producers to
 15 provide domestic requirements for medical
 16 isotopes without use of highly enriched ura-
 17 nium consistent with the feasibility criteria
 18 described in subparagraph (B) not later
 19 than the date that is 4 years after the date
 20 of submission of the report.

21 “(5) SECOND REPORT TO CONGRESS.—If the
 22 study of the National Academy of Sciences determines
 23 under paragraph (4)(A)(i) that the procurement of
 24 supplies of medical isotopes from commercial sources
 25 that do not use highly enriched uranium is feasible,

1 *but the Secretary is unable to report the existence of*
2 *commitments under paragraph (4)(C)(ii), not later*
3 *than the date that is 6 years after the date of enact-*
4 *ment of the Nuclear Fees Reauthorization Act of 2005,*
5 *the Secretary shall submit to Congress a report that*
6 *describes options for developing domestic supplies of*
7 *medical isotopes in quantities that are adequate to*
8 *meet domestic demand without the use of highly en-*
9 *riched uranium consistent with the cost increase de-*
10 *scribed in paragraph (4)(B)(iii).*

11 *“(6) CERTIFICATION.—At such time as commer-*
12 *cial facilities that do not use highly enriched ura-*
13 *nium are capable of meeting domestic requirements*
14 *for medical isotopes, within the cost increase described*
15 *in paragraph (4)(B)(iii) and without impairing the*
16 *reliable supply of medical isotopes for domestic utili-*
17 *zation, the Secretary shall submit to Congress a cer-*
18 *tification to that effect.*

19 *“(7) SUNSET PROVISION.—After the Secretary*
20 *submits a certification under paragraph (6), the Nu-*
21 *clear Regulatory Commission shall, by rule, terminate*
22 *the review of the Nuclear Regulatory Commission of*
23 *export license applications under this subsection.”.*

1 **SEC. 205. COST RECOVERY FROM GOVERNMENT AGENCIES.**

2 *Section 161 w. of the Atomic Energy Act of 1954 (42*
 3 *U.S.C. 2201(w)) is amended—*

4 *(1) by striking “for or is issued” and all that fol-*
 5 *lows through “1702” and inserting “to the Nuclear*
 6 *Regulatory Commission for, or is issued by the Nu-*
 7 *clear Regulatory Commission, a license or certifi-*
 8 *cate”;*

9 *(2) by striking “483a” and inserting “9701”;*
 10 *and*

11 *(3) by striking “, of applicants for, or holders of,*
 12 *such licenses or certificates”.*

13 **SEC. 206. CONFLICTS OF INTEREST RELATING TO CON-**
 14 **TRACTS AND OTHER ARRANGEMENTS.**

15 *Section 170A b. of the Atomic Energy Act of 1954 (42*
 16 *U.S.C. 2210a(b)) is amended—*

17 *(1) by redesignating paragraphs (1) and (2) as*
 18 *subparagraphs (A) and (B), respectively, and indent-*
 19 *ing appropriately;*

20 *(2) by striking “b. The Commission” and insert-*
 21 *ing the following:*

22 *“b. EVALUATION.—*

23 *“(1) IN GENERAL.—Except as provided in para-*
 24 *graph (2), the Nuclear Regulatory Commission”;* and

25 *(3) by adding at the end the following:*

1 “(2) *NUCLEAR REGULATORY COMMISSION.*—Not-
 2 withstanding any conflict of interest, the Nuclear
 3 Regulatory Commission may enter into a contract,
 4 agreement, or arrangement with the Department of
 5 Energy or the operator of a Department of Energy fa-
 6 cility, if the Nuclear Regulatory Commission deter-
 7 mines that—

8 “(A) the conflict of interest cannot be miti-
 9 gated; and

10 “(B) adequate justification exists to proceed
 11 without mitigation of the conflict of interest.”.

12 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to carry out
 14 this title and the amendments made by this title such sums
 15 as are necessary for fiscal year 2006 and each subsequent
 16 fiscal year.

17 **TITLE III—NRC HUMAN CAPITAL**
 18 **PROVISIONS**

19 **SEC. 301. PROVISION OF SUPPORT TO UNIVERSITY NU-**
 20 **CLEAR SAFETY, SECURITY, AND ENVIRON-**
 21 **MENTAL PROTECTION PROGRAMS.**

22 Section 31 b. of the Atomic Energy Act of 1954 (42
 23 U.S.C. 2051(b)) is amended—

24 (1) by striking “b. The Commission is further
 25 authorized to make” and inserting the following:

1 “b. *GRANTS AND CONTRIBUTIONS.*—*The Nuclear Regu-*
 2 *latory Commission is authorized—*

3 “(1) *to make*”;

4 (2) *in paragraph (1) (as designated by para-*
 5 *graph (1)) by striking the period at the end and in-*
 6 *serting “; and”; and*

7 (3) *by adding at the end the following:*

8 “(2) *to provide grants, loans, cooperative agree-*
 9 *ments, contracts, and equipment to institutions of*
 10 *higher education (as defined in section 102 of the*
 11 *Higher Education Act of 1965 (20 U.S.C. 1002)) to*
 12 *support courses, studies, training, curricula, and dis-*
 13 *ciplines pertaining to nuclear safety, security, or en-*
 14 *vironmental protection, or any other field that the*
 15 *Nuclear Regulatory Commission determines to be crit-*
 16 *ical to the regulatory mission of the Nuclear Regu-*
 17 *latory Commission.”.*

18 **SEC. 302. RECRUITMENT TOOLS.**

19 *Chapter 14 of the Atomic Energy Act of 1954 (42*
 20 *U.S.C. 2201 et seq.) is amended by adding at the end the*
 21 *following:*

22 **“SEC. 170C. RECRUITMENT TOOLS.**

23 *“The Nuclear Regulatory Commission may purchase*
 24 *promotional items of nominal value for use in the recruit-*
 25 *ment of individuals for employment.”.*

1 **SEC. 303. EXPENSES AUTHORIZED TO BE PAID BY THE NU-**
 2 **CLEAR REGULATORY COMMISSION.**

3 *Chapter 14 of the Atomic Energy Act of 1954 (42*
 4 *U.S.C. 2201 et seq.) (as amended by section 302) is amend-*
 5 *ed by adding at the end the following:*

6 **“SEC. 170D. EXPENSES AUTHORIZED TO BE PAID BY THE**
 7 **NUCLEAR REGULATORY COMMISSION.**

8 *“The Nuclear Regulatory Commission may—*

9 *“(1) pay transportation, lodging, and subsistence*
 10 *expenses of employees who—*

11 *“(A) assist scientific, professional, adminis-*
 12 *trative, or technical employees of the Nuclear*
 13 *Regulatory Commission; and*

14 *“(B) are students in good standing at an*
 15 *institution of higher education (as defined in sec-*
 16 *tion 102 of the Higher Education Act of 1965*
 17 *(20 U.S.C. 1002)) pursuing courses related to the*
 18 *field in which the students are employed by the*
 19 *Nuclear Regulatory Commission; and*

20 *“(2) pay the costs of health and medical services*
 21 *furnished, pursuant to an agreement between the Nu-*
 22 *clear Regulatory Commission and the Department of*
 23 *State, to employees of the Nuclear Regulatory Com-*
 24 *mission and dependents of the employees serving in*
 25 *foreign countries.”.*

1 **SEC. 304. NUCLEAR REGULATORY COMMISSION SCHOLAR-**
 2 **SHIP AND FELLOWSHIP PROGRAM.**

3 *Chapter 19 of the Atomic Energy Act of 1954 is*
 4 *amended by inserting after section 242 (42 U.S.C. 2015a)*
 5 *the following:*

6 **“SEC. 243. SCHOLARSHIP AND FELLOWSHIP PROGRAM.**

7 *“a. SCHOLARSHIP PROGRAM.—To enable students to*
 8 *study, for at least 1 academic semester or equivalent term,*
 9 *science, engineering, or another field of study that the Nu-*
 10 *clear Regulatory Commission determines is in a critical*
 11 *skill area related to the regulatory mission of the Nuclear*
 12 *Regulatory Commission, the Nuclear Regulatory Commis-*
 13 *sion may carry out a program to—*

14 *“(1) award scholarships to undergraduate stu-*
 15 *dents who—*

16 *“(A) are United States citizens; and*

17 *“(B) enter into an agreement under sub-*
 18 *section c. to be employed by the Nuclear Regu-*
 19 *latory Commission in the area of study for*
 20 *which the scholarship is awarded.*

21 *“b. FELLOWSHIP PROGRAM.—To enable students to*
 22 *pursue education in science, engineering, or another field*
 23 *of study that the Nuclear Regulatory Commission deter-*
 24 *mines is in a critical skill area related to its regulatory*
 25 *mission, in a graduate or professional degree program of-*
 26 *fered by an institution of higher education in the United*

1 *States, the Nuclear Regulatory Commission may carry out*
 2 *a program to—*

3 “(1) *award fellowships to graduate students*
 4 *who—*

5 “(A) *are United States citizens; and*

6 “(B) *enter into an agreement under sub-*
 7 *section c. to be employed by the Nuclear Regu-*
 8 *latory Commission in the area of study for*
 9 *which the fellowship is awarded.*

10 “c. *REQUIREMENTS.—*

11 “(1) *IN GENERAL.—As a condition of receiving*
 12 *a scholarship or fellowship under subsection a. or b.,*
 13 *a recipient of the scholarship or fellowship shall enter*
 14 *into an agreement with the Nuclear Regulatory Com-*
 15 *mission under which, in return for the assistance, the*
 16 *recipient shall—*

17 “(A) *maintain satisfactory academic*
 18 *progress in the studies of the recipient, as deter-*
 19 *mined by criteria established by the Nuclear*
 20 *Regulatory Commission;*

21 “(B) *agree that failure to maintain satisfac-*
 22 *tory academic progress shall constitute grounds*
 23 *on which the Nuclear Regulatory Commission*
 24 *may terminate the assistance;*

1 “(C) on completion of the academic course
 2 of study in connection with which the assistance
 3 was provided, and in accordance with criteria
 4 established by the Nuclear Regulatory Commis-
 5 sion, engage in employment by the Nuclear Reg-
 6 ulatory Commission for a period specified by the
 7 Nuclear Regulatory Commission, that shall be
 8 not less than 1 time and not more than 3 times
 9 the period for which the assistance was provided;
 10 and

11 “(D) if the recipient fails to meet the re-
 12 quirements of subparagraph (A), (B), or (C), re-
 13 imburse the United States Government for—

14 “(i) the entire amount of the assistance
 15 provided the recipient under the scholarship
 16 or fellowship; and

17 “(ii) interest at a rate determined by
 18 the Nuclear Regulatory Commission.

19 “(2) WAIVER OR SUSPENSION.—The Nuclear
 20 Regulatory Commission may establish criteria for the
 21 partial or total waiver or suspension of any obliga-
 22 tion of service or payment incurred by a recipient of
 23 a scholarship or fellowship under this section.

24 “d. COMPETITIVE PROCESS.—Recipients of scholar-
 25 ships or fellowships under this section shall be selected

1 *through a competitive process primarily on the basis of aca-*
 2 *demic merit and such other criteria as the Nuclear Regu-*
 3 *latory Commission may establish, with consideration given*
 4 *to financial need and the goal of promoting the participa-*
 5 *tion of individuals identified in section 33 or 34 of the*
 6 *Science and Engineering Equal Opportunities Act (42*
 7 *U.S.C. 1885a, 1885b).*

8 *“e. DIRECT APPOINTMENT.—The Nuclear Regulatory*
 9 *Commission may appoint directly, with no further competi-*
 10 *tion, public notice, or consideration of any other potential*
 11 *candidate, an individual who has—*

12 *“(1) received a scholarship or fellowship awarded*
 13 *by the Nuclear Regulatory Commission under this*
 14 *section; and*

15 *“(2) completed the academic program for which*
 16 *the scholarship or fellowship was awarded.”.*

17 **SEC. 305. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF**
 18 **HIGHER EDUCATION.**

19 *Chapter 19 of the Atomic Energy Act of 1954 (42*
 20 *U.S.C. 2015 et seq.) (as amended by section 304) is amend-*
 21 *ed by inserting after section 243 the following:*

22 **“SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF**
 23 **HIGHER EDUCATION.**

24 *“a. DEFINITIONS.—In this section:*

1 “(1) *HISPANIC-SERVING INSTITUTION*.—The term
 2 ‘Hispanic-serving institution’ has the meaning given
 3 the term in section 502(a) of the Higher Education
 4 Act of 1965 (20 U.S.C. 1101a(a)).

5 “(2) *HISTORICALLY BLACK COLLEGE AND UNI-*
 6 *VERSITY*.—The term ‘historically Black college or uni-

7 versity’ has the meaning given the term ‘part B insti-

8 tution’ in section 322 of the Higher Education Act of

9 1965 (20 U.S.C. 1061).

10 “(3) *TRIBAL COLLEGE*.—The term ‘Tribal col-

11 lege’ has the meaning given the term ‘tribally con-

12 trolled college or university’ in section 2(a) of the

13 Tribally Controlled College or University Assistance

14 Act of 1978 (25 U.S.C. 1801(a)).

15 “b. *PARTNERSHIP PROGRAM*.—The Nuclear Regu-

16 latory Commission may establish and participate in activi-

17 ties relating to research, mentoring, instruction, and train-

18 ing with institutions of higher education, including His-

19 panic-serving institutions, historically Black colleges or

20 universities, and Tribal colleges, to strengthen the capacity

21 of the institutions—

22 “(1) to educate and train students (including

23 present or potential employees of the Nuclear Regu-

24 latory Commission); and

1 “(2) to conduct research in the field of science,
2 engineering, or law, or any other field that the Nu-
3 clear Regulatory Commission determines is important
4 to the work of the Nuclear Regulatory Commission.”.

5 **SEC. 306. ELIMINATION OF PENSION OFFSET FOR CERTAIN**
6 **REHIRED FEDERAL RETIREES.**

7 Chapter 14 of the Atomic Energy Act of 1954 (42
8 U.S.C. 2201 et seq.) (as amended by sections 302 and 303)
9 is amended by adding at the end the following:

10 **“SEC. 170E. ELIMINATION OF PENSION OFFSET FOR CER-**
11 **TAIN REHIRED FEDERAL RETIREES.**

12 “a. *IN GENERAL.*—The Nuclear Regulatory Commis-
13 sion may waive the application of section 8344 or 8468 of
14 title 5, United States Code, on a case-by-case basis for em-
15 ployment of an annuitant—

16 “(1) in a position of the Nuclear Regulatory
17 Commission for which there is exceptional difficulty
18 in recruiting or retaining a qualified employee; or

19 “(2) when a temporary emergency hiring need
20 exists.

21 “b. *PROCEDURES.*—The Nuclear Regulatory Commis-
22 sion shall prescribe procedures for the exercise of authority
23 under this section, including—

24 “(1) criteria for any exercise of authority; and

25 “(2) procedures for a delegation of authority.

1 “c. *EFFECT OF WAIVER.*—*An employee as to whom a*
2 *waiver under this section is in effect shall not be considered*
3 *an employee for purposes of subchapter II of chapter 83,*
4 *or chapter 84, of title 5, United States Code.*”.

5 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

6 *There are authorized to be appropriated to carry out*
7 *this title and amendments made by this title such sums as*
8 *may be necessary for fiscal year 2006 and each fiscal year*
9 *thereafter.*

Calendar No. 154

109TH CONGRESS
1ST Session

S. 858

[Report No. 109-100]

A BILL

To reauthorize Nuclear Regulatory Commission
user fees, and for other purposes.

JULY 1, 2005

Reported with an amendment